

#### § 1505.35

any matter in which such a financial interest exists.

(b) For the purposes of 18 U.S.C. 208, the phrase “participates personally and substantially in a particular matter” applies to participation through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, change, accusation, arrest, or other particular matter. Accordingly, a special government employee should in general be disqualified from participating as such in a matter of any type the outcome of which will have a direct and predictable effect upon the financial interests covered by section 208.

#### § 1505.35 Use of Board employment.

A special government employee shall not use his or her Board employment for a purpose that is, or gives the appearance of being, motivated by the desire for private gain for himself or herself or another person, particularly one with whom he or she has family, business, or financial ties.

#### § 1505.36 Use of inside information.

(a) A special government employee shall not use any inside information obtained as a result of his or her Board employment for private gain for himself or herself or another person, either by direct action on his or her part or by counsel, recommendation, or suggestion to another person, particularly one with whom he or she has family, business, or financial ties. For the purpose of this section, “inside information” means information obtained under Board or RTC authority which has not become part of the body of public information.

(b) The provisions of §1505.11(a) through (d) with regard to employees shall be applicable to special government employees.

#### § 1505.37 Coercion.

A special government employee shall not use his or her Board employment to coerce, or give the appearance of coercing, a person to provide financial benefit to himself or herself or another person particularly one with whom he

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or she has family, business, or financial ties.

#### § 1505.38 Advice on rules of conduct and conflicts of interest statutes.

Any special government employee having any doubt as to the ethics of any conduct falling within the conflicts of interest statutes, or regulations, should confer with the DAEO. Assistance in interpreting the conflicts of interest statutes, these regulations, and any other instructions involving conduct and conflicts of interest, will also be provided by the DAEO to any special government employee, prospective special government employee, and their appointing officials and supervisors desiring it.

#### § 1505.39 Disclosure of employment and financial interests.

Special government employees will be required to file a confidential statement of employment and financial interests in accordance with § 1505.24, or a Financial Disclosure Report (SF 278) in accordance with § 1505.25.

### Subpart G—Competence, Experience, Integrity, and Fitness of Resolution Trust Corporation Employees

#### § 1505.40 Minimum competence, experience, integrity, and fitness requirements for Resolution Trust Corporation employees.

(a) For the purposes of this section:

(1) *Default* has the meaning set forth in 12 CFR 1506.2(d).

(2) *Pattern or practice of defalcation* has the meaning set forth in 12 CFR 1506.2(k).

(3) *Loss* has the meaning set forth in 12 CFR 1506.2(g).

(4) *Material obligation* has the meaning set forth in 12 CFR 1506.2(i).

(5) *Substantial loss to the Federal Deposit insurance funds* has the meaning set forth in 12 CFR 1506.2(t).

(b) The RTC shall prescribe policies and procedures which, at a minimum ensure that any individual (not subject to the regulations at 12 CFR part 1506 or 12 CFR part 1606) who is performing, directly or indirectly, any function or service on behalf of the RTC meets

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minimum standards of competency, experience, integrity, and fitness and that only persons meeting such minimum standards:

(1) Enter into any contract with the RTC; or

(2) Are employed by the RTC or otherwise perform any service for or on behalf of the RTC.

(c) The standards established by the RTC in its policies and procedures issued pursuant to paragraph (a) of this section shall, at a minimum, prohibit from service on its behalf any person who has:

(1) Been convicted of any felony;

(2) Been removed from, or prohibited from participation in the affairs of, any insured depository institution pursuant to any final enforcement action by any appropriate Federal banking agency;

(3) Demonstrated a pattern or practice of defalcation regarding obligations to insured depository institutions; or

(4) Caused a substantial loss to Federal deposit insurance funds.

(d) The RTC shall prescribe policies and procedures which require that any offer (not subject to the regulations at 12 CFR part 1506 or 12 CFR part 1606), and any employment application submitted to the RTC, include a list and description of any instance during the preceding 5 years in which the person or company under such person's control defaulted on a material obligation to an insured depository institution; and such additional information as the RTC determines to be necessary.

[55 FR 5358, Feb. 14, 1990; 55 FR 11719, Mar. 29, 1990]

## PART 1506—QUALIFICATION OF, ETHICAL STANDARDS OF CONDUCT FOR, AND RESTRICTIONS ON THE USE OF CONFIDENTIAL INFORMATION BY INDEPENDENT CONTRACTORS

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AUTHORITY: 12 U.S.C. 1441a(a)(13) and (p)(1)(B), (3), (6), and (7).

SOURCE: 55 FR 5350, 5356, Feb. 14, 1990, unless otherwise noted.

### § 1506.1 Authority, purpose, and scope.

(a) *Authority.* This part is adopted pursuant to section 21A(p) of the Federal Home Loan Bank Act, as added by section 501 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ('FIRREA'), Pub. L. 101-73, section 501, 103 Stat. 183, 363 (to be codified at 12 U.S.C. 1441a(p)); section 21A(b) (4) and (12) of the Federal Home Loan Bank Act, as added by section 501 of FIRREA, Pub. L. 101-73, section 501, 103 Stat. 183, 363 (to be codified at 12 U.S.C. 1441a(b) (4) and (12)); and section 11(d) of the Federal Deposit Insurance Act, as amended by section 212 of FIRREA, Pub. L. 101-73, section 212, 103 Stat. 183, 222 (to be codified at 12 U.S.C. 1821(d)). Pursuant to those sections, the Oversight Board and the Resolution Trust Corporation are promulgating rules and regulations applicable to independent contractors governing conflicts of interest, ethical responsibilities, the use of confidential information consistent with the goals and purposes of titles 18 and 41 of the United States Code, and minimum standards of competence, experience, integrity, and fitness.

(b) *Purpose.* These regulations seek to ensure that contractors meet minimum standards of competence, integrity, fitness, and experience and are held to the highest standards of ethical conduct in performing services for the RTC. They are intended to prevent:

(1) The direct or indirect use of information gained through performance of a contract with the RTC for personal